

§ 740.4

(e) *Reexports*. Commodities may be reexported under this License Exception, provided that they could be exported from the United States to the new country of destination under LVS.

(f) *Reporting requirements*. See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception LVS.

[61 FR 64274, Dec. 4, 1996, as amended at 63 FR 2456, Jan. 15, 1998; 63 FR 50520, Sept. 22, 1998; 73 FR 57504, Oct. 3, 2008]

§ 740.4 Shipments to Country Group B countries (GBS).

License Exception GBS authorizes exports and reexports to Country Group B (see Supplement No. 1 to part 740) of those commodities where the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) indicates a license requirement to the ultimate destination for national security reasons only and identified by “GBS—Yes” on the CCL. See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception GBS.

[63 FR 2456, Jan. 15, 1998, as amended at 69 FR 5690, Feb. 6, 2004]

§ 740.5 Civil end-users (CIV).

(a) *Scope*. License Exception CIV authorizes exports and reexports of items on the Commerce Control List (CCL) (Supplement No. 1 to part 774 of the EAR) that have a license requirement to the ultimate destination pursuant to the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) for NS reasons only; and identified by “CIV—Yes” in the License Exception section of the Export Control Classification Number (ECCN), provided the items are destined to civil end-users for civil end-uses in Country Group D:1, except North Korea (Supplement No. 1 to part 740 of this part).

(b) *Restrictions*—(1) *Restricted end-users and end-uses*. You may not use CIV if you “know” the item will be or is intended to be exported, reexported, or transferred (in-country) to military uses or military end-users. Such exports, reexports, and transfers (in-country) will continue to require a license. In addition to conventional military activities, military uses include

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any proliferation activities described and prohibited by part 744 of the EAR.

(2) *Visa status*. Deemed exports under License Exception CIV are not authorized to foreign nationals in an expired visa status. It is the responsibility of the exporter to ensure that, in the case of deemed exports, the foreign national maintains a valid U.S. visa, if required to hold a visa from the United States.

(c) *Reporting requirement*. See § 743.1 of the EAR for reporting requirements for exports of certain items under this License Exception.

(d) *Foreign National Review (FNR) requirement for deemed exports*—(1) *Submission requirement*. Prior to disclosing eligible technology to a foreign national under this License Exception, you must submit a Foreign National Review (FNR) request to BIS, as required under § 748.8(s) of the EAR. Your FNR request must include information about the foreign national required under § 748.8(t) of the EAR and set forth in Supplement No. 2 of part 748 of the EAR.

(2) *Confirmation of eligibility*. You may not use License Exception CIV for a deemed export until you have obtained confirmation of eligibility by checking the System for Tracking Export License Applications (<https://snapr.bis.doc.gov/stela>) or through the Simplified Network Application Procedure (<https://snapr.bis.doc.gov>).

(3) *Action by BIS*. Within nine business days of the registration of the FNR request, BIS will refer the FNR request electronically, along with all necessary documentation for inter-agency review, or if necessary return the FNR request without action (*e.g.*, if the information provided is incomplete). Processing time starts at the point at which the notification is registered into BIS’s electronic system.

(4) *Review by other departments or agencies*. The Departments of Defense, State, Energy, and other agencies, as appropriate, may review the FNR request. Within 30 calendar days of receipt of the BIS referral, the reviewing agency will provide BIS with a recommendation either to approve or deny the FNR request. A reviewing agency that fails to provide a recommendation within 30 days shall be deemed to have

no objection to the final decision of BIS.

(5) *Action on the FNR Request.* After the interagency review period, BIS will promptly notify the applicant regarding the FNR request, *i.e.*, whether the FNR request is approved, denied, or more time is needed to consider the request.

[69 FR 64493, Nov. 5, 2004, as amended at 73 FR 68324, Nov. 18, 2008; 75 FR 31680, June 4, 2010]

§ 740.6 Technology and software under restriction (TSR).

(a) *Scope.* License Exception TSR permits exports and reexports of technology and software where the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) indicates a license requirement to the ultimate destination for national security reasons only and identified by “TSR—Yes” in entries on the CCL, provided the software or technology is destined to Country Group B. (See Supplement No. 1 to part 740.) A written assurance is required from the consignee before exporting or reexporting under this License Exception.

(1) *Required assurance for export of technology.* You may not export or re-export technology under this License Exception until you have received from the importer a written assurance that, without a BIS license or License Exception, the importer will not:

(i) Reexport or release the technology to a national of a country in Country Groups D:1 or E:1; or

(ii) Export to Country Groups D:1 or E:1 the direct product of the technology, if such foreign produced direct product is subject to national security controls as identified on the CCL (See General Prohibition Three, § 736.2(b)(3) of the EAR); or

(iii) If the direct product of the technology is a complete plant or any major components of a plant, export to Country Groups D:1 or E:1 of the direct product of the plant or major components thereof, if such foreign produced direct product is subject to national security controls as identified on the CCL or is “subject to the ITAR” (see 22 CFR parts 120 through 130).

(2) *Required assurance for export of software.* You may not export or reex-

port software under this License Exception until you have received from the importer a written assurance that, without a BIS license or License Exception, the importer will neither:

(i) Reexport or release the software or the source code for the software to a national of a country in Country Groups D:1 or E:1; nor

(ii) Export to Country Groups D:1 or E:1 the direct product of the software, if such foreign produced direct product is subject to national security controls as identified on the CCL. (See General Prohibition Three, § 736.2(b)(3) of the EAR).

(3) *Form of written assurance.* The required assurance may be made in the form of a letter or any other written communication from the importer, including communications via facsimile, or the assurance may be incorporated into a licensing agreement that specifically includes the assurances. An assurance included in a licensing agreement is acceptable only if the agreement specifies that the assurance will be honored even after the expiration date of the licensing agreement. If such a written assurance is not received, License Exception TSR is not applicable and a license is required. The license application must include a statement explaining why assurances could not be obtained.

(4) *Other License Exceptions.* The requirements in this License Exception do not apply to the export of technology or software under other License Exceptions, or to the export of technology or software included in an application for the foreign filing of a patent, provided the filing is in accordance with the regulations of the U.S. Patent Office.

(b) *Reporting requirements.* See § 743.1 of the EAR for reporting requirements for exports of certain items under License Exception TSR. Note that reports are not required for release of technology or source code subject to the EAR to foreign nationals in the U.S. under the provisions of License Exception TSR.

[61 FR 64275, Dec. 4, 1996, as amended at 63 FR 50520, Sept. 22, 1998; 63 FR 55019, Oct. 14, 1998; 69 FR 5690, Feb. 6, 2004; 75 FR 44890, July 30, 2010; 78 FR 61901, Oct. 4, 2013]